

OLC CHRONO

Approved For Release 2005/09/28 : CIA-RDP79M00983A001500050032-3



Washington, D.C. 20505

Executive Registry
77-1907/B

OLC 77-3054/b  
10 September 1977

The Honorable Walter D. Huddleston, Chairman  
Subcommittee on Charters and Guidelines  
Select Committee on Intelligence  
United States Senate  
Washington, D.C. 20510

*Gidelius*

SSCI
77-0677/5

Dear Mr. Chairman:

My apologies for taking so long to respond to your letter of July 21st (R#9090) with its questions on the importance to the Central Intelligence Agency of retaining section 102(c) of the National Security Act of 1947, which authorizes termination of Agency employees "in the interests of the United States" notwithstanding the provisions of other law. As I mentioned to you briefly orally, I believe that this particular provision of law is an essential ingredient maintaining both a secure and effective intelligence service for our country.

The sensitivity and the delicacy of the activities legally and properly performed by the Agency for our Government simply demand that we must have the utmost confidence in those individuals to whom we delegate the authorities for carrying out various of these activities. We cannot, in many instances, afford to determine by trial and error whether a man can be trusted to perform in accordance with legality and the standards of propriety which have been established for him by his superiors. If there is any doubt in our minds as to the total reliability of one of our officers on such sensitive assignments, we simply must forego the execution of that assignment. Put in another way, I simply cannot come to the Senate Select Committee on Intelligence and other oversight bodies and give assurance of the Central Intelligence Agency's performing in the way the Congress and the President have directed if I lack confidence in those to whom I must entrust the execution of our programs.

Enclosed are the statistics you asked for on the use of this authority over the past 15 years. Unfortunately, this Agency does not maintain statistics on those employees terminated under section 102(c) who were later declared eligible for U.S. Government employment by the U.S. Civil Service Commission, as the responsibility for obtaining Civil Service eligibility rests with the employee. Please note, however,

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Classified by Signer  
Exempt from general  
declassification schedule of E.O. 11652  
exemption schedule 53 (1), (2), (3)  
Automatically Declassified on  
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that although this authority has been used sparingly in the past, the existence of such authority has been very instrumental in the management of our personnel. In the seven months I have held this office, I have personally given the option to four employees of resignation/retirement or involuntary termination under the provisions of section 102(c). In two of these instances, the individuals had mixed their official business at the Agency with the conduct of favors for friends who were former members of the Agency. In so doing, they placed the Agency and the U.S. Government in a position of apparent involvement in activities with which we neither had nor desired any part. The other two employees had each specifically failed to carry out orders of their superiors in the field. It was my opinion that if we cannot count on subordinates carrying out their orders and being truthful to us about what they are doing, the operations arm of our Agency will soon be out of control. All four of these individuals elected to resign/retire. I do not believe that they could have been induced to do so under the normal Civil Service regulations for separation, or at least not for an extended period of time. I would further add that perhaps the greatest benefit to the Agency in these four cases was the message it transmitted of our policy with respect to these types of activities. In short, limited functioning of the authority under section 102(c) can be a powerful yeast in the meal.

It is, of course, equally important that our employees be protected against arbitrariness on the part of any Director in the execution of this authority. ~~Speaking~~ from a position of prejudice, I can only say that I believe the oversight procedures now extant are adequate to inhibit or at the least uncover such arbitrariness if it existed. Not the least of these is the existence of the Intelligence Oversight Board to which any aggrieved employee may appeal. Beyond that, the existence of both the Senate Select Committee and the House Permanent Select Committee on Intelligence serves much the same function. Finally, I can only say that I have personally agonized over the four decisions I mentioned to you. I do not believe that any Director could do less in the face of the responsibilities involved.

I would be most happy to discuss this matter with you or your Subcommittee in person or to provide further information if this would be of assistance.

Enclosure

Distribution:

Orig - Add'e w/encl.

✓ 1 - DCI w/encl.

1 - A/DDCI w/encl.

1 - ER w/encl.

1 - DDA w/encl.

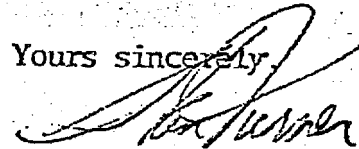
1 - OGC w/encl.

1 - DD/Personnel w/encl.

1 - OLC Subject w/encl.

1 - OLC Chrono

Yours sincerely,



STANSFIELD TURNER

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EMPLOYEES TERMINATED BY DCI  
UNDER THE PROVISIONS OF SECTION 102(c),  
NATIONAL SECURITY ACT, 1947  
1962 - 1977

<u>YEAR</u>	<u>NO.</u>	<u>REASON</u>
1962	24	In each case, the employee involved was declared surplus to Agency manpower requirements.
1963	2	Same as above.
1964	2	Same as above.
	1	Employee was found to be unsuitable for continued Agency employment.
1965	0	
1966	0	
1967	0	
1968	1	Employee failed to meet Agency Medical standards.
1969	0	
1970	1	Employee was declared surplus to Agency manpower requirements.
1971	1	Employee failed to meet Agency conduct standards while on an overseas tour.
1972	1	Employee failed to meet Agency standards of conduct.
	1	Employee refused to accept an assignment

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<u>YEAR</u>	<u>NO.</u>	<u>REASON</u>
1973	13	In each case, the employee involved was declared surplus to Agency manpower requirements.
1974	1	Employee was declared surplus to Agency manpower requirements.
	1	Employee failed to meet Agency conduct standards.
1975	0	
1976	1	Employee refused to accept an assignment.
1977	1 (Pending)	Employee failed to meet Agency conduct standards.

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EMPLOYEES WHO RESIGNED OR RETIRED  
IN LIEU OF POSSIBLE TERMINATION  
BY THE DCI UNDER THE  
PROVISIONS OF SECTION 102(c),  
NATIONAL SECURITY ACT, 1947  
1962 - 1977

<u>Year</u>	<u>Resigned in lieu</u>	<u>Retired in lieu</u>
1962	50	13
1963	43	6
1964	70	7
1965	83	11
1966	67	8
1967	47	12
1968	60	13
1969	46	4
1970	53	4
1971	53	3
1972	43	2
1973	97 *	309 **
1974	44	1
1975	28	1
1976	34	3
1977 (Jan-Jun)	21	1

\* 60 of these employees resigned after being declared surplus to Agency requirements.

\*\* 307 of these employees retired after being declared surplus to Agency requirements.

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The Director  
Central Intelligence Agency

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Washington, D. C. 20505

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OLC 77-3054/b

Honorable Walter D. Huddleston, Chairman  
Subcommittee on Charters and Guidelines  
Select Committee on Intelligence  
United States Senate  
Washington, D. C. 20510

Dear Mr. Chairman:

I have your letter of 21 July 1977 (R#9090) which, among other things, requests my views on the necessity of retaining section 102(c) of the National Security Act of 1947, which authorizes the Director of Central Intelligence, notwithstanding the provisions of other law, to terminate Agency employment "in the interests of the United States."

I view this authority as an indispensable underpinning for the effective management of this Agency. This Agency is entrusted with highly sensitive and delicate activities on behalf of our Government, possesses some of the Nation's most sensitive secrets, must maintain an overall personnel profile compatible with changing mission requirements, and needs to introduce new talent to preserve organizational vitality. Section 102(c) is an essential tool in achieving the goals of accountability, professionalism, judgment, security, and appropriate personnel mix.

The opportunity for serving in the CIA is a distinct privilege and our expectations from our employees must be equally high. Recently, the employment relationship of two persons who had served us well in the past and had fine potential for the future was severed because they did not demonstrate the requisite professionalism and judgment. I must have the ability to exercise strict control over and complete confidence in the manner in which employees in this Agency perform their duties.

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It should be noted that authority similar to 102(c) exists for national security purposes for other departments and agencies, including the National Security Agency (50 U.S.C. 833) and the Departments of State, Justice, and Defense (5 U.S.C. 7531).

Most Federal employees have a statutory expectancy of continued employment and can be removed only for such cause as will promote the efficiency of the service and they are entitled to appeal the decision. Although the statutory outcome is different under section 102(c) because of the need for secrecy in intelligence matters, I believe the system must be just, if for no other reason than the practical one that foreign intelligence services assign overriding priority to penetration of this Agency by uncovering and exploiting the weaknesses of personnel. Controls on the fairness of the system are also represented by the oversight bodies that exist within both the Executive and Legislative Branches.

Enclosed please find the statistical breakdown you requested on the use of section 102(c) authority over the past 15 years. Unfortunately, this Agency does not maintain statistics on those employees terminated under section 102(c) who were later declared eligible for U.S. Government employment by the U.S. Civil Service Commission, as the responsibility for obtaining Civil Service eligibility rests with the employee.

Yours sincerely,

STANSFIELD TURNER

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- 1 - DD/Personnel w/encl.
- 1 - OLC Subject w/encl.
- ✓ 1 - OLC Chrono

OLC:  ndl (1Sept77)

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TRANSMITTAL AND DOCUMENT RECEIPT 7 September 1977

TO: William Mitchell  
Senate Select Committee on Intelligence  
United States Senate  
Washington, D.C. 20510

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Counsel  
Central Intelligence Agency  
Room 7 D 35  
Washington, D.C. 20505

THE DOCUMENTS LISTED HEREON ARE FORWARDED FOR:

INFORMATION	ACTION	X	RETENTION	LOAN	25X1
CONTROL NUMBER	DOC. DATE	SUBJECT (Unclassified preferred)			CLASS.

25X1 Cover Memo to  
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2Sep77

ltr to Adm. Turner fr Attorney General Griffin B. Bell  
transmitting procedures approved pursuant to  
E.O. 11905 governing access to information held by the  
NSA

Procedures Approved by the Attorney General Under  
Executive Order 11905

cy2 Series C

SSCI

*Guidelines Justice NSA*

RECEIPT

SIGNATURE (acknowledging receipt of above documents)

*Andrew H. Holtz*

DATE OF RECEIPT  
7 Sept 77

RETURN TO

OFFICE OF LEGISLATIVE COUNSEL  
CENTRAL INTELLIGENCE AGENCY  
ROOM 7 D 35  
WASHINGTON, D.C. 20505

FORM 3772B  
10-76

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